

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	SECURITY INTEREST

**CONVEYING PARTY DATA**

Name	Formerly	Execution Date	Entity Type
Fired Up, Inc.		01/01/2011	CORPORATION: TEXAS
Kona Restaurant Group, Inc.		01/01/2011	CORPORATION: DELAWARE

**RECEIVING PARTY DATA**

Name:	FRG Capital LLC
Street Address:	201 South Angel Light Drive
City:	Spicewood
State/Country:	TEXAS
Postal Code:	78669
Entity Type:	LIMITED LIABILITY COMPANY: TEXAS

**PROPERTY NUMBERS Total: 16**

Property Type	Number	Word Mark
Registration Number:	2759326	FIRE UP, INC.
Registration Number:	3227716	CARINO'S ITALIAN
Registration Number:	3233107	CARINO'S ITALIAN
Registration Number:	2966984	JOHNNY CARINO'S ITALIAN
Registration Number:	2966982	JOHNNY CARINO'S ITALIAN
Registration Number:	2942017	JOHNNY CARINO'S
Registration Number:	2989254	JOHNNY CARINO'S
Registration Number:	3766673	PASTA HARVEST
Registration Number:	3338682	THE GRILL IS OPEN
Registration Number:	3425372	NOT YOUR GARDEN VARIETY ITALIAN.
Registration Number:	3689782	CARINO'S ITALIAN
Registration Number:	2402504	JOHNNY CARINO'S COUNTRY ITALIAN
Registration Number:	2404597	JOHNNY CARINO'S COUNTRY ITALIAN

**CH \$415.00 2759326**

Registration Number:	2020712	JOHNNY CARINO'S ITALIAN
Registration Number:	2282902	SKILLETINI
Registration Number:	2093528	JOHNNY CARINO'S ITALIAN KITCHEN

**CORRESPONDENCE DATA**

Fax Number: (512)391-2173  
*Correspondence will be sent via US Mail when the fax attempt is unsuccessful.*  
Phone: 512.236.2023  
Email: mmayer@jw.com  
Correspondent Name: Jackson Walker L.L.P.  
Address Line 1: 100 Congress Avenue, Suite 1100  
Address Line 4: Austin, TEXAS 78701

ATTORNEY DOCKET NUMBER:	137772.00002
NAME OF SUBMITTER:	Mindy Mayer
Signature:	/mindy mayer/
Date:	01/20/2011

Total Attachments: 7  
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## TRADEMARK SECURITY AGREEMENT

This Trademark Security Agreement (this "Agreement"), dated as of January 1, 2011, is made by and among Fired Up, Inc., a Texas corporation ("Debtor"), and the Debtor's subsidiary, Kona Restaurant Group, Inc., a Delaware corporation ("Kona"), and together with Debtor, collectively the "Pledgor") and FRG Capital LLC, a Texas limited liability company ("Creditor").

### Recitals

Pledgor and Creditor are parties to a Security Agreement of even date herewith (as the same may hereafter be amended, supplemented or restated from time to time, the "Security Agreement").

As a condition to extending credit to or for the account of Debtor, Creditor has (in addition to other requirements) required the execution and delivery of this Agreement by Pledgor.

ACCORDINGLY, in consideration of the mutual covenants contained in the Security Agreement and herein, the parties hereby agree as follows:

1. Definitions. All terms defined in the Recitals hereto or in the Security Agreement that are not otherwise defined herein shall have the meanings given to them therein. In addition, the following terms have the meanings set forth below:

"Security Interest" has the meaning given in Section 2.

"Trademarks" means all of Pledgor's right, title and interest in and to: (i) all trademarks, service marks, and collective membership marks owned or controlled by Pledgor, registrations and applications for registration for each, and the respective goodwill associated with each, (ii) licenses, fees or royalties with respect to each, and (iii) the right to sue for past, present and future infringement, dilution and damages therefor, and licenses thereunder, all as presently existing or hereafter arising or acquired, including, without limitation, the marks listed on **Exhibit A** attached hereto.

2. Security Interest. Pledgor hereby irrevocably pledges and assigns to, and grants Creditor a security interest (the "Security Interest") with power of sale to the extent permitted by law, in the Trademarks to secure payment of the Obligations. This Agreement grants only the Security Interest herein described, is not intended to and does not affect any present transfer of title of any trademark registration or application for the Trademarks and makes no assignment and grants no right to assign or perform any other action with respect to any intent to use trademark application for the Trademarks, unless such action is permitted under 15 U.S.C. § 1060.

3. Representations, Warranties and Agreements. Pledgor represents, warrants and agrees as follows:

(a) Trademarks. **Exhibit A** accurately lists all Trademarks owned or controlled by Pledgor as of the date hereof and accurately reflects the existence and status of all Trademarks and all applications and registrations pertaining thereto as of the date hereof; provided, however, that **Exhibit A** need not list common law marks (i.e., Trademarks for which there are no applications or registrations) which are not material to Pledgor's or any affiliate's business(es). If after the date hereof, Pledgor owns or controls any Trademarks not listed on **Exhibit A** (other than common law marks which are not material to Pledgor's or any affiliate's business(es)), or if **Exhibit A** ceases to accurately reflect the existence and status of applications and registrations pertaining to the

Trademarks, then Pledgor shall promptly provide written notice to Creditor with a replacement Exhibit A, which upon acceptance by Creditor shall become part of this Agreement.

(b) **Affiliates.** As of the date hereof, no affiliate of Pledgor owns, controls, or has a right to have assigned to it any items that would, if such item were owned by Pledgor, constitute Trademarks. If after the date hereof any affiliate of Pledgor owns, controls, or has a right to have assigned to it any such items, then Pledgor shall promptly either: (i) cause such affiliate to assign all of its rights in such item(s) to Pledgor; or (ii) notify Creditor of such item(s) and cause such affiliate to execute and deliver to Creditor a trademark security agreement substantially in the form of this Agreement.

(c) **Title.** Pledgor, individually or collectively, has absolute title to each Trademark listed on **Exhibit A**, free and clear of all liens. Pledgor (i) will have, at the time such Pledgor acquires any rights in Trademarks hereafter arising, absolute title to each such Trademark free and clear of all Liens and (ii) will keep all Trademarks free and clear of all Liens.

(d) **No Sale.** Pledgor will not assign, transfer, encumber or otherwise dispose of the Trademarks or any interest therein, without Creditor's prior written consent.

(e) **Defense.** Pledgor will, at its own expense and using commercially reasonable efforts, protect and defend each of the Trademarks against all claims or demands of all Persons other than those holding liens permitted by Creditor in writing.

(f) **Maintenance.** Pledgor will at its own expense maintain the Trademarks to the extent reasonably advisable in its business including, but not limited to, filing all applications to obtain letters Trademark registrations and all affidavits, maintenance fees, annuities, and renewals possible with respect to trademark registrations and applications therefor. Pledgor covenants that it will not abandon nor fail to pay any maintenance fee or annuity due and payable on any Trademark, nor fail to file any required affidavit or renewal in support thereof, without first providing Creditor: (i) sufficient written notice, of at least 60 days, to allow Creditor to timely pay any such maintenance fees or annuities which may become due on any Trademarks, or to file any affidavit or renewal with respect thereto, and (ii) a separate written power of attorney or other authorization to pay such maintenance fees or annuities, or to file such affidavit or renewal, should such be necessary or desirable.

(g) **Creditor's Right to Take Action.** If Pledgor fails to perform or observe any of its covenants or agreements set forth in this Section 3, and if such failure continues for a period of ten (10) calendar days after Creditor gives Pledgor written notice thereof (or, in the case of the agreements contained in subsection (h), immediately upon the occurrence of such failure, without notice or lapse of time), or if Pledgor notifies Creditor that Pledgor intends to abandon a Trademark, Creditor may (but need not) perform or observe such covenant or agreement or take steps to prevent such intended abandonment on behalf and in the name, place and stead of Pledgor (or, at Creditor's option, in Creditor's own name) and may (but need not) take any and all other actions which Creditor may reasonably deem necessary to cure or correct such failure or prevent such intended abandonment.

(h) **Costs and Expenses.** Except to the extent that the effect of such payment would be to render any loan or forbearance of money usurious or otherwise illegal under any applicable law, Pledgor shall pay Creditor on demand the amount of all moneys expended and all costs and expenses (including reasonable attorneys' fees and disbursements) incurred by Creditor in connection with or as a result of Creditor's taking action under subsection (i) or exercising its rights under Section 6,

together with interest thereon from the date expended or incurred by Creditor at the default rate of interest provided for in the Security Agreement.

(i) **Power of Attorney.** To facilitate Creditor's taking action under this subsection (i) and exercising its rights under Section 6, Pledgor hereby irrevocably appoints (which appointment is coupled with an interest) Creditor, or its delegate, as the attorney-in-fact of Pledgor with the right (but not the duty) from time to time to create, prepare, complete, execute, deliver, endorse or file, in the name and on behalf of Pledgor, any and all instruments, documents, applications, financing statements, and other agreements and writings required to be obtained, executed, delivered or endorsed by Pledgor under this Section 3, or, necessary for Creditor, after a Default, to enforce or use the Trademarks or to grant or issue any exclusive or non exclusive license under the Trademarks to any third party, or to sell, assign, transfer, pledge, encumber or otherwise transfer title in or dispose of the Trademarks to any third party. Pledgor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. The power of attorney granted herein shall terminate upon the termination of the Security Agreement as provided therein and the payment and performance of all Obligations.

4. **Pledgor's Use of the Trademarks.** Pledgor shall be permitted to control and manage the Trademarks, including the right to exclude others from making, using or selling items or providing services covered by the Trademarks and any licenses thereunder, in the same manner and with the same effect as if this Agreement had not been entered into, so long as no Default exists.

5. **Defaults.** Each of the following occurrences shall constitute an event of default under this Agreement (herein called a "Default"): (a) a Default, as defined in the Security Agreement, shall occur; or (b) Pledgor shall fail promptly to observe or perform any covenant or agreement herein binding on it; or (c) any of the representations or warranties contained in Section 3 shall prove to have been incorrect in any material respect when made.

6. **Remedies.** While a Default exists, Creditor may, at its option, take any or all of the following actions:

(a) Creditor may exercise any or all remedies available under the Security Agreement.

(b) Creditor may sell, assign, transfer, pledge, encumber or otherwise dispose of any or all of the Trademarks.

(c) Creditor may enforce the Trademarks and any licenses thereunder, and if Creditor shall commence any suit for such enforcement, Pledgor shall, at the request of Creditor, do any and all lawful acts and execute any and all proper documents required by Creditor in aid of such enforcement.

7. **Miscellaneous.** This Agreement can be waived, modified, amended, terminated or discharged, and the Security Interest can be released, only explicitly in a writing signed by Creditor. A waiver signed by Creditor shall be effective only in the specific instance and for the specific purpose given. Mere delay or failure to act shall not preclude the exercise or enforcement of any of Creditor's rights or remedies. All rights and remedies of Creditor shall be cumulative and may be exercised singularly or concurrently, at Creditor's option, and the exercise or enforcement of any one such right or remedy shall neither be a condition to nor bar the exercise or enforcement of any other. All notices to be given to Pledgor under this Agreement shall be given in the manner and with the effect provided in the Security Agreement. Creditor shall not be obligated to preserve any rights Pledgor may have against prior parties, to realize on the Trademarks at all or in any particular manner or order, or to apply any cash proceeds of the Trademarks in any particular order of application. This Agreement shall be binding upon and inure to the benefit of Pledgor

and Creditor and their respective participants, successors and assigns and shall take effect when signed by Pledgor and delivered to Creditor, and Pledgor waives notice of Creditor's acceptance hereof. Creditor may execute this Agreement if appropriate for the purpose of filing, but the failure of Creditor to execute this Agreement shall not affect or impair the validity or effectiveness of this Agreement. A photographic or other reproduction of this Agreement or of any financing statement authorized by Pledgor shall have the same force and effect as the original for all purposes of a financing statement. This Agreement shall be governed by the internal law of Texas without regard to conflicts of law provisions. If any provision or application of this Agreement is held unlawful or unenforceable in any respect, such illegality or unenforceability shall not affect other provisions or applications which can be given effect and this Agreement shall be construed as if the unlawful or unenforceable provision or application had never been contained herein or prescribed hereby. All representations and warranties contained in this Agreement shall survive the execution, delivery and performance of this Agreement and the creation and payment of the Obligations.


**THE PARTIES WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED ON OR PERTAINING TO THIS AGREEMENT.**

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IN WITNESS WHEREOF, the parties have executed this Trademark Security Agreement as of the date first written above.

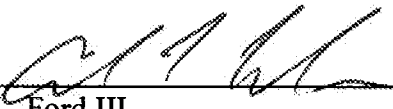
**CREDITOR:**

**FRG CAPITAL LLC**  
a Texas limited liability company

By:   
Creed L. Ford III  
President

**PLEDGOR:**

**FIRED UP, INC.**  
a Texas corporation

By:   
Creed L. Ford III  
Chief Executive Officer

**PLEDGOR:**

**KONA RESTAURANT GROUP, INC.**  
a Delaware corporation

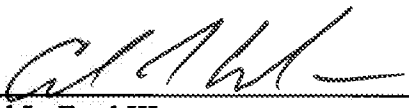





By:   
Creed L. Ford III  
Chief Executive Officer


EXHIBIT A

UNITED STATES ISSUED TRADEMARKS, SERVICE MARKS

AND COLLECTIVE MEMBERSHIP MARKS

MARK	REG. NO.
FIRED UP, INC.	2759326
CARINO'S ITALIAN (and design)	3227716
	
CARINO'S ITALIAN	3233107
JOHNNY CARINO'S ITALIAN (and design)	2966984
	
JOHNNY CARINO'S ITALIAN	2966982
JOHNNY CARINO'S (and design)	2942017
	
JOHNNY CARINO'S	2989254
PASTA HARVEST	3766673
THE GRILL IS OPEN	3338682
NOT YOUR GARDEN VARIETY ITALIAN.	3425372
CARINO'S ITALIAN (and design)	3689782
	
JOHNNY CARINO'S COUNTRY ITALIAN (and design)	2402504
	
JOHNNY CARINO'S COUNTRY ITALIAN	2404597



MARK	REG. NO.
JOHNNY CARINO'S ITALIAN (and design) 	2020712
SKILLETINI	2282902
JOHNNY CARINO'S ITALIAN KITCHEN	2093528